

B. The Fair Housing Assistance Program

FHEO does not work alone. Since 1980, the Fair Housing Assistance Program (FHAP) has provided financial reimbursement to State and local fair housing enforcement agencies for complaint processing, training, data, and information systems designed to further fair housing within the FHAP agency's jurisdiction.

To participate in FHAP, an agency must have laws that provide rights and remedies substantially equivalent to those in the FHAct and it must effectively enforce those laws. This network of State and local fair housing enforcement agencies participating in FHAP keeps growing, with State and local agencies assuming a greater share of the responsibility for administering fair housing laws and ordinances. Exhibit 1 lists the jurisdictions the Department determined to be "substantially equivalent" as of September 30, 1997:

Exhibit 1

**Substantially Equivalent State and Local Fair Housing Laws
as of September 30, 1997**

States	Localities
Arizona	Phoenix, AZ
California	Clearwater, FL
Colorado	Orlando, FL
Connecticut	Jacksonville, FL
Delaware	Palm Beach County, FL
Florida	Pinellas County, FL
Georgia	St. Petersburg, FL
Hawaii	Tampa, FL
Indiana	Cedar Rapids, FL
Iowa	Dubuque, IA
Kentucky	Des Moines, IA
Louisiana	Mason City, IA
Maryland	Springfield, IL
Massachusetts	Elkhart, IN
Michigan	Fort Wayne, IN
Missouri	Gary, IN
Nebraska	Hammond, IN
North Carolina	South Bend, IN
Ohio	Lawrence, KS

States	Localities
Oklahoma	Olathe, KS
Pennsylvania	Salina, KS
Rhode Island	Lexington-Fayette, KY
South Carolina	Cambridge, MA
Tennessee	Kansas City, MO
Texas	Omaha, NE
Utah	Louisville/Jefferson County, KY
Virginia	Ashville-Buncombe County, NC
Washington	Charlotte-Mecklenburg County, NC
West Virginia	Durham, NC
	Greensboro, NC
	New Hanover City, NC
	Orange County, NC
	Winston-Salem, NC
	Dayton, OH
	Parma, OH
	Shaker Heights, OH
	Pittsburgh, PA
	Reading, PA
	Knoxville, TN
	Austin, TX
	Dallas, TX
	Fort Worth, TX
	Garland, TX
	King County, WA
	Seattle, WA
	Tacoma, WA
	Charleston, WV
	Huntington, WV

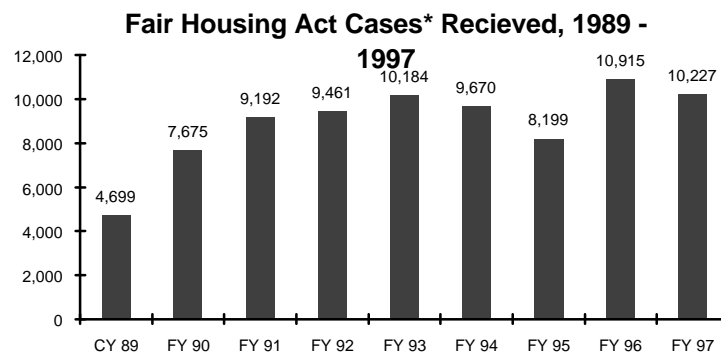
Pursuant to a memorandum of understanding, FHEO ordinarily refers complaints to a FHAP agency if the law of the jurisdiction provides for such referrals. The FHAP agency then proceeds much as FHEO would with investigation, conciliation, and adjudication of the complaint, as appropriate. FHAP agencies also receive complaints directly from the public. If the FHAP agency finds reasonable cause to believe illegal discrimination occurred, it pursues the case in the appropriate State or local forum.

B.2.1 The Nature and Number of FHAct Cases

A. Cases

After an upsurge of 33 percent in the number of cases received from FY 1995 to FY 1996, the total number of FHAct cases¹ received in FY 1997 dropped 6 percent to 10,227 cases. Exhibit 2 puts all this in perspective, showing the number of cases filed since the FHAct went into effect in 1989.

Exhibit 2



*In FY 96, HUD initiated a new processing category called "Claims." This category captures time spent processing cases which do not become full FHAct Complaints and are included in this chart.

Of the 10,227 cases received in FY 1997, 6,120 came into FHEO and the remaining 4,107 came into FHAP agencies.

B. Claims and Complaints

Of the 6,120 cases coming into FHEO in FY 1997, FHEO processed 4,427 as claims. By the end of FY 1997, FHEO had refined its inventory of claims into a total of 1,719 filed complaints.

By the end of the same period, the FHAP agencies' inventory of filed complaints totaled 4,081.

Combined, FHEO and the FHAP agencies ended the year with 5,800 filed complaints. This represents a 7 percent drop in the total complaint inventory from FY 1996.

¹ When making statistical assessments like this, this report uses the word "cases" to mean the combined number of "claims" and "complaints."

Exhibit 3 lists the number of FHEO and FHAP “complaints” in each state and the District of Columbia in 1997.

Exhibit 3
Number of FHEO and FHAP Agency Complaints by State
FY 1997

State	FHEO	FHAP
Alaska	7	
Alabama	34	
Arkansas	68	
Arizona	7	136
California	163	713
Colorado	33	101
Connecticut	7	71
District of Columbia	13	
Delaware	1	32
Florida	46	256
Georgia	30	99
Hawaii	3	33
Iowa	12	135
Idaho	42	
Illinois	220	3
Indiana	6	120
Kansas	75	18
Kentucky	1	104
Louisiana	13	65
Massachusetts	20	183
Maryland	16	81
Maine	9	
Michigan	12	104
Minnesota	46	
Missouri	80	149
Mississippi	26	
Montana	17	29
North Carolina	5	143
North Dakota	13	
Nebraska	7	76
New Hampshire	21	

State	FHEO	FHAP
New Jersey	53	
New Mexico	19	
Nevada	50	
New York	185	
Ohio	23	370
Oklahoma	20	33
Oregon	104	
Pennsylvania	8	198
Rhode Island	9	20
South Carolina	4	53
South Dakota	11	
Tennessee	11	63
Texas	74	332
Utah	4	70
Virginia	9	60
Vermont	1	
Washington	24	209
Wisconsin	48	
West Virginia	1	23
Wyoming	8	

C. The Characteristics of Complaints

The bases for housing discrimination complaints filed under the FHAct are: race, familial status, disability, sex, national origin, religion, color, and retaliation². Race continues to be the most common basis of alleged discrimination, accounting for 43.5 percent of all complaints in FY 1997. The next largest categories of alleged discrimination were disability (29.4 percent) and familial status (22.1 percent).

Complaints alleging discrimination on the basis of familial status increased by 3 percent, disability by 4 percent, and color by 2.7 percent. The other bases -- sex, national origin, and religion -- remained relatively unchanged in reference to the percentage of complaints.

² "Retaliation" refers to a respondent's taking action against the complainant for asserting her fair housing rights, or against a witness for cooperating with the investigation. Although it is not a protected class, retaliation is treated as a basis for FHEO case tracking purposes.

Exhibit 4
Bases of Complaints* Filed with FHEO and FHAP Agencies in FY 1997

	Race	Familial Status	Disability	Sex	National Origin	Religion	Color	Retaliation
FY 1996	2,696	1,557	1,571	768	789	96	470	122
FY 1997	2,525	1,284	1,703	662	681	105	598	106

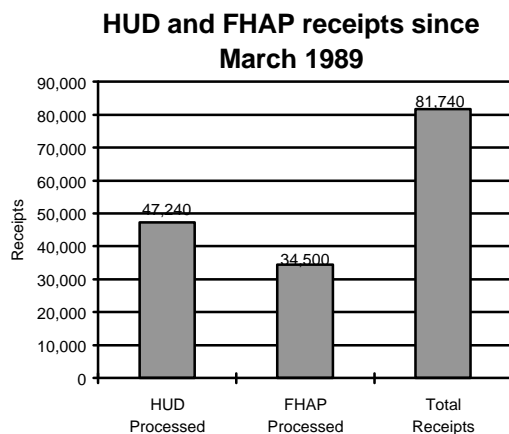
** Note that a single complaint can allege discrimination on a number of different bases.*

In FY 1997, the most common form of discrimination alleged was imposing different terms or conditions in privileges or services connected with the sale or rental of housing. Complainants cited this form of discrimination in 64 percent of complaints filed with FHEO and in 69 percent of complaints filed with FHAP agencies.

D. Case Processing

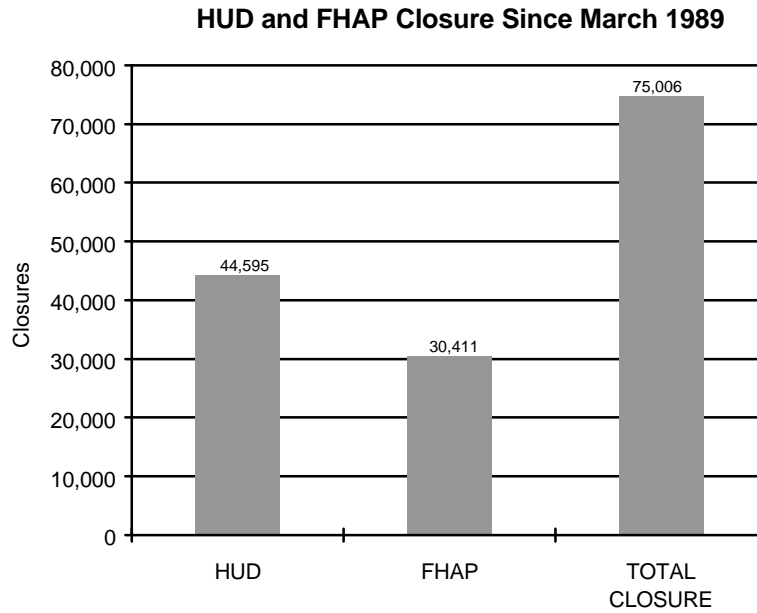
FHEO has made great strides in closing fair housing cases, despite retaining many aged cases. Since March 1989, the year the Fair Housing Amendments Act went into effect, HUD and FHAP agencies received a total of 81,740 cases. See Exhibit 5.

Exhibit 5



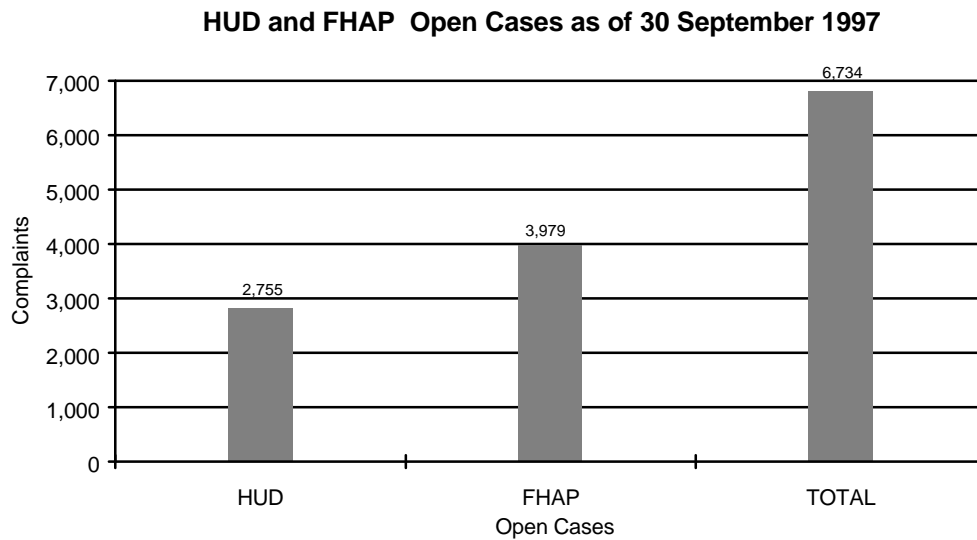
By the end of FY 1997, FHEO and the FHAP agencies had worked this total of 81,740 cases received down to 6,734 open cases, closing out some 75,006 cases. See Exhibit 6.

Exhibit 6



Of the 6,734 remaining open cases, FHEO had 2,755, and FHAP agencies had 3,979. See Exhibit 7.

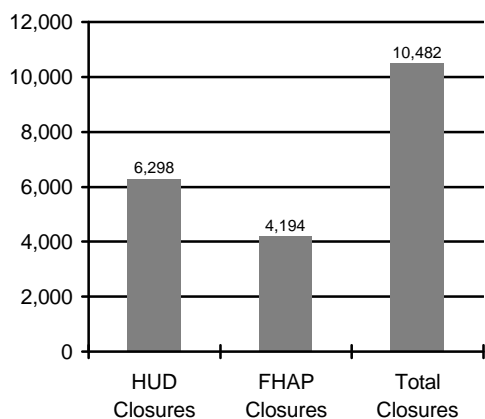
Exhibit 7



During FY 1997, HUD and FHAP agencies together closed 10,344 cases. Of these, FHEO closed 6,299 cases and FHAP agencies closed 4,045 cases.³ See Exhibit 8.

Exhibit 8

Total HUD/FHAP Closures for FY 97

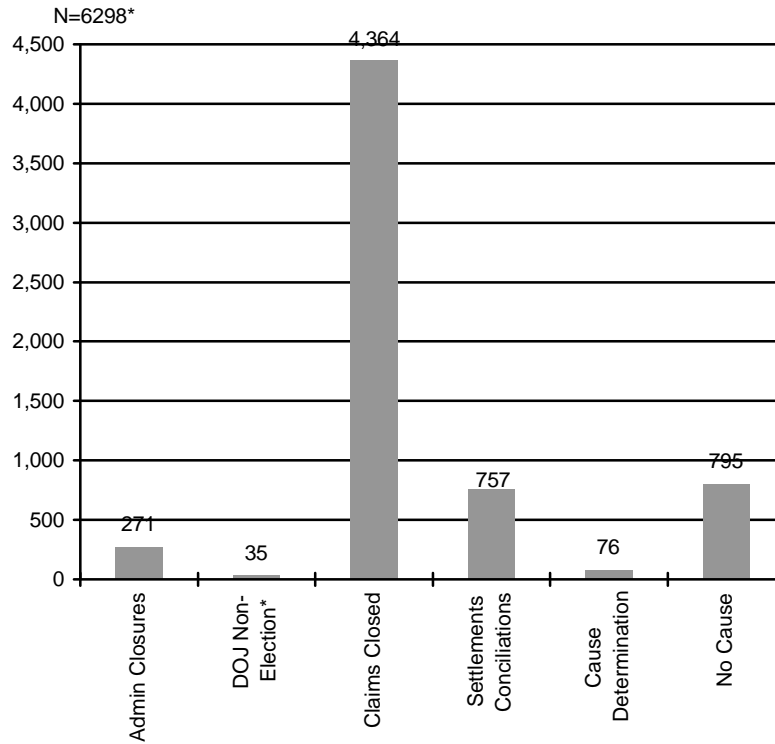


The final disposition of cases warrant examination. FHEO and FHAP agencies resolve all cases in one of five ways: administrative closures, closures as claims, conciliation/settlement, no cause determination, and cause determination. Exhibits 9 and 10 display FHEO and FHAP cases by the way in which they were closed.

³ FHAP agencies handled 40 percent of the total cases received in FY 1997.

Exhibit 9

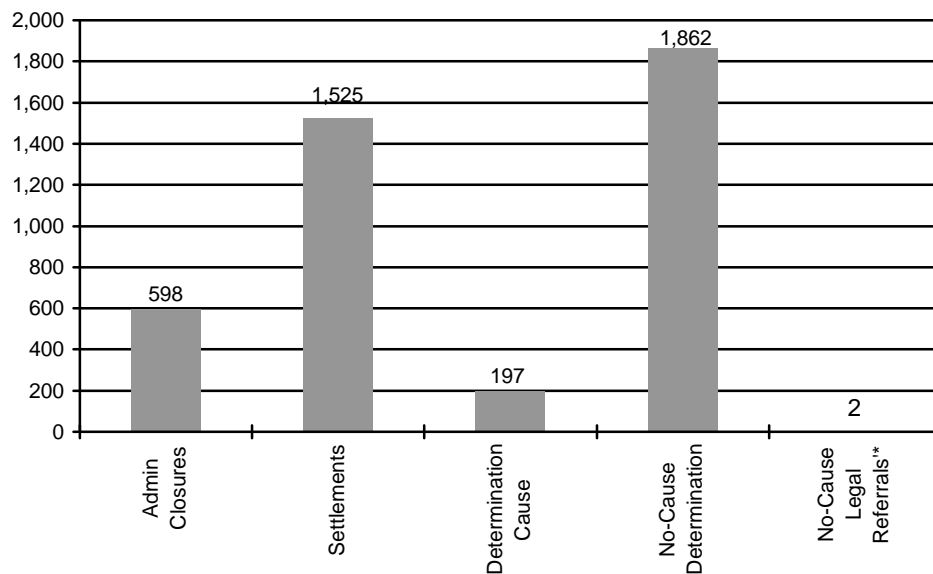
COMPLETED FHEO CASES IN FY 1997



* These are categories of cases taken outside of ordinary FHEO processing channels and sent to DOJ to investigate. Typically, these cases entail criminal, pattern and practice, or zoning and land use allegations.

Exhibit 10

COMPLETIONS OF FHAP AGENCY COMPLAINTS - FY 1997

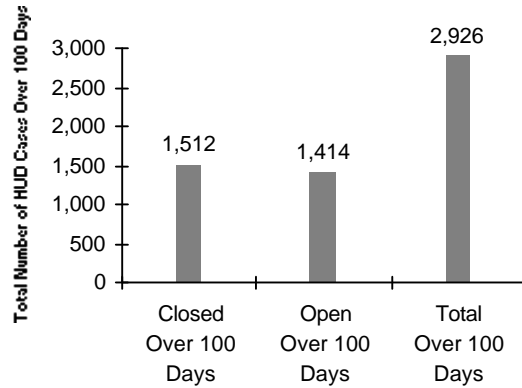


*Typically, these are criminal, zoning or pattern-and-practice complaints.

The timeliness of investigations also warrants discussion. The FHAct directs that investigations of fair housing complaints be completed within 100 days of filing “unless it is impractical to do so.” Any complaint that is still open or has not had a legal determination made is considered an “aged” complaint. During FY1997, FHEO closed 1,512 aged complaints, leaving an inventory of 1,414 aged complaints. See Exhibit 11.

Exhibit 11

HUD Aged Complaint Workload Over 100 Days for FY 1997



At the close of FY 1997, for FHAP agencies, there were 2,966 complaints remaining open over 100 days. During the same year, FHAP agencies closed some 3,467 complaints that were over 100 days old.

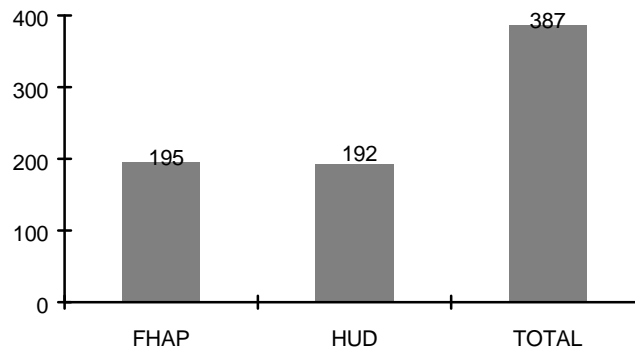
E. Conciliations and Settlements

The critical measure of the effectiveness of a program is how much it actually helps the people it was designed to assist. By this measure, FHEO was effective in FY 1997, both in the number of cases it conciliated and in its efforts to get compensation for housing discrimination victims.

Conciliation provides relief for possible victims of discrimination without subjecting them and the respondents they name to the trauma and expense of litigation. Conciliation can provide monetary relief, housing relief, or both. Exhibit 12 illustrates the number of complaints FHEO and FHAP agencies conciliated for housing relief in FY 1997.

Exhibit 12

HUD and FHAP Complaints Conciliated with Housing Relief

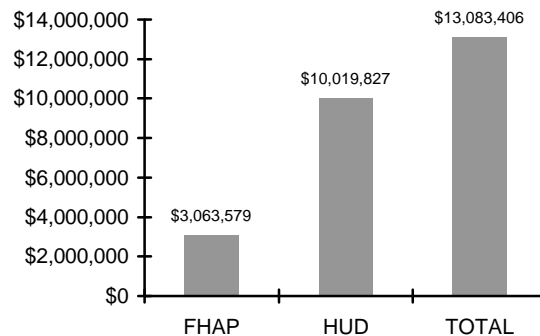


As for monetary relief, the amount FHEO brought in rose dramatically in FY 1997, soaring 230 percent over FY 1996 report levels. FHAP agency monetary compensation fell by 35 percent in FY 1997.

The FHEO complaints that conciliated with monetary compensation, on average, settled for \$28,465 in FY 1997, representing an average increase per complaint of \$9,258 from FY 1996. FHAP-processed complaints that conciliated with monetary compensation had an average compensation of \$3,754, as compared with \$5,902 in FY 1996. Exhibit 13 illustrates the monetary compensation awarded by FHAP agencies and HUD during FY 1997.

Exhibit 13

HUD and FHAP Compensation/Housing Relief



B.2.2 Adjudicating Fair Housing Complaints

The Office of Administrative Law Judges is charged with adjudicating FHAct cases that the Department brings on behalf of aggrieved persons and for which no election is made to proceed in Federal court. In addition to conducting administrative hearings, administrative law judges (ALJs) assist the parties with settlement negotiations, provide training to the public and to attorneys about the administrative process and the current case law, and facilitate pre-complaint mediation.

A. Caseload

During FY 1997, ALJs administered a caseload of 108 cases. Of these 108 cases, parties docketed 89 new cases in FY 1997. Eighteen of the 108 cases were pending election from FY 1996. Of these 18 cases, 11 elected U.S. District Court, six settled by consent order, and one case was heard and decided by an administrative law judge. Additionally, one case pending a decision was docketed in from FY 1995. That case, *HUD v. Dutra*, was tried in 1996, and was awaiting decision in 1997. FHEO's 1996 Annual Report to Congress discussed the circumstances of *HUD v. Dutra*.

Exhibit 14

SUMMARY OF CASES DOCKETED, FY 97

NUMBER	STATUS
89	Cases docketed during FY 1997
1	Pending decision from FY 1995
18	Pending election from FY 1996
108	Total Cases to be disposed of during FY 97

Exhibit 15

DISPOSITION OF FY 1997 CASELOAD

NUMBER	STATUS
55	Cases elected U.S. District Court
35	Settled by Consent Order
9	Decisions
7	Voluntarily Dismissed
2	Pending hearing at End of FY 1997

B. Election Cases

A total of 55 cases elected to proceed in U.S. District Court during FY 1997. Of the 55 cases, complainants elected in 6 cases; respondents elected in 48 cases; and both parties elected in one case. See Exhibit 16.

Exhibit 16
Parties Electing Federal District Court in FY 1997

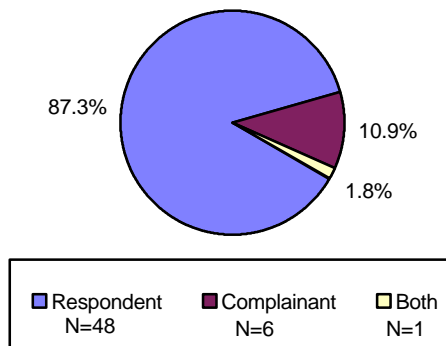
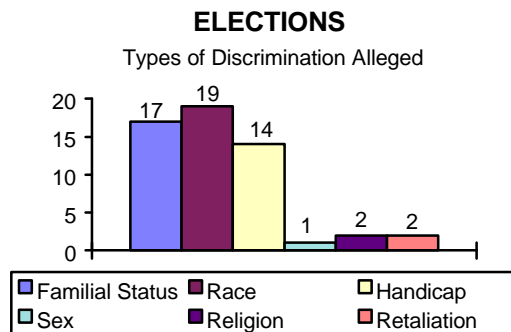


Exhibit 17 illustrates the bases of the discrimination alleged in each case that elected U.S. District Court.

Exhibit 17



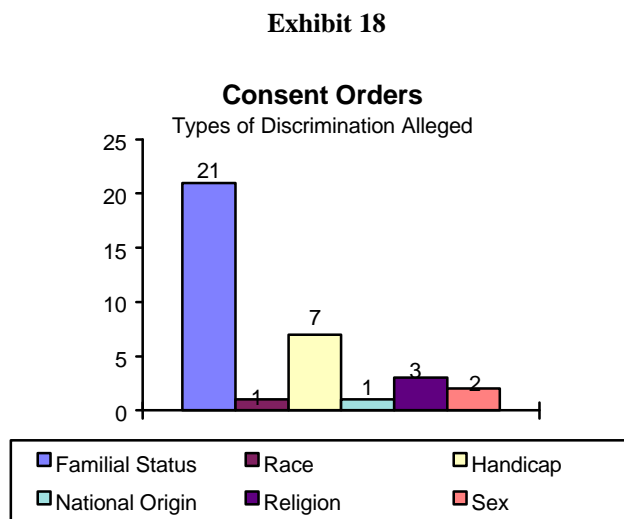
C. Consent Orders

A consent order is a voluntary, legally enforceable agreement resolving a case. During FY 1997, 35 cases were settled by consent order. In that year, consent orders provided for a total of:

- \$160,194 monetary in relief for complainants;

- Payment of \$19,600 in civil money penalties; and
- \$4,000 in attorney's fees.

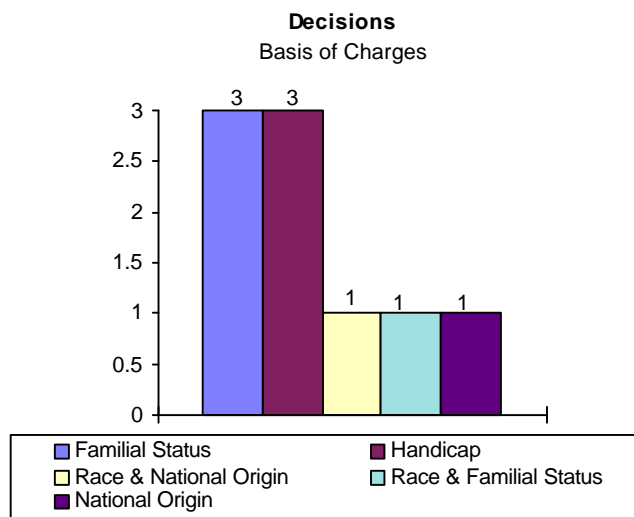
The following chart identifies the type of discrimination alleged in each consent order.



D. ALJ Decisions

ALJs decided nine cases in FY 1997. One of these cases, *HUD v. Dutra*, was first docketed in FY 1995. Seven other cases were pending decision in 1997 following hearings held in FY 1996. The final case was docketed, tried, and decided in FY 1997. The ALJs decided every case within 60 days after the record closed. For these nine cases, ALJs awarded a total of \$57,210 in damages, \$17,500 in civil money penalties, and \$16,586 in attorney fees. Exhibit 18 lists the bases of discrimination alleged in each case:

Exhibit 19



E. Dismissals and Withdrawals

Parties voluntarily dismissed seven cases in FY 1997. One case, *HUD v. Bergman*, was docketed on March 18, 1997, and withdrawn by the Secretary on May 1, 1997. On August 11, 1997, the Secretary reissued the charge and on August 21, 1997, the complainant elected U.S. District Court. This case counted as one of the 55 elections and as one of the seven dismissals or withdrawals in FY 1997.

F. Pending Cases

At the end of FY 1997, two cases were pending decisions.

B.2.3 FHEO's Oversight of HUD-funded Agencies

The Department reviews Federal programs to ensure that they are administered in a nondiscriminatory manner. Within the Department, FHEO has the primary responsibility for ensuring compliance with the civil rights statutes by local governments and agencies that receive HUD funding.

FHEO oversight takes two forms. First, FHEO conducts compliance reviews of recipient activities. Second, FHEO investigates complaints alleging discrimination under the following statutes:

- Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination in Federal programs on the basis of race, color or national origin;

- Section 109 of Title I of the Housing and Community Development Act of 1974 (Section 109), which prohibits discrimination on the basis of race, color, sex, national origin or religion in certain HUD programs funded through the Office of Community Planning and Development;
- Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits discrimination on the basis of disability in any federally-assisted program;
- Title II of the Americans with Disabilities Act of 1990 (ADA), which extends the nondiscrimination mandate of Section 504 to State and local governments that do not receive Federal financial assistance; and
- the Age Discrimination Act of 1975 (The Act), which prohibits discrimination on the basis of age.

During FY 1997, 487 complaints of discrimination were filed with FHEO under these statutes. See Exhibit 20.

Exhibit 20
FY 1997 Complaints

Statute	1997 Complaints
Title VI (only)	74
Section 109 (concurrently processed with Title VI)	141
Section 504 (only)	206
ADA (concurrently processed with Section 504)	62
ADA (only)	4
TOTAL	487

At the beginning of FY 1997, FHEO had 123 open compliance reviews. The Field Offices initiated 126 new compliance reviews during FY 1997, and completed a total of 137 compliance reviews by the end of the fiscal year. The following is a report for each affected Field Office:

Exhibit 21
FY 1997 Compliance Reviews

Field Office	Open on 10-1-97	Initiated During FY '97	Completed by 9-30-97
New England	0	16	6
NY/NJ	5	7	10
Mid-Atlantic	25	42	34
Southeast/Caribbean	7	10	7
Mid-West	9	2	3
Southwest	45	6	26
Great Plains	2	27	27
Rocky Mountains	1	1	0
Pacific Hawaii	23	0	9
Northwest/Alaska	6	15	15
TOTALS	123	126	137

As a result of these complaint investigations and compliance reviews, FHEO worked with a number of recipients of HUD funds to remedy their civil rights problems. For example, on September 3, 1997, FHEO issued a final finding of non-compliance against the Galveston Housing Authority (GHA) and GRACE Corporation (GHA's non-profit instrumentality) under Title VI of the 1964 Civil Rights Act. Five current and former African American and Hispanic members of the GHA Board also filed FHAct complaints alleging that the current majority of the Board were taking actions which discriminated against African American residents of the housing authority. FHEO's findings detailed years of racial segregation at the housing authority and recent actions that perpetuated segregation.

On September 16, 1997, the Board of the GHA voted to enter into a voluntary compliance agreement and a conciliation agreement with FHEO. The agreements required the GHA to develop a housing mobility plan increasing the use of Section 8 Certificates and Vouchers in segregated areas.

Another example of FHEO's oversight in FY 1997 is its investigation of the Section 504 complaint filed by ADAPT (Americans Disabled for Attendant Program Today) against the City of Austin, Texas. As a result of the investigation, the Department negotiated a Voluntary Compliance Agreement with Austin, which includes some unique provisions requiring review of building plans and consideration of "visitability" provisions. "Visitability" refers to providing an accessible entrance and doors throughout new construction

and rehabilitation projects, even where not required by fair housing laws. This agreement will be used as a model by other Field Offices.

FHEO also worked with DOJ regarding the Village of Addison, Illinois, which had selectively demolished housing in a predominantly Hispanic area without relocating or compensating the Hispanic residents. FHEO investigated the matter and referred it to DOJ upon finding evidence of FHAct violations. FHEO and DOJ obtained a \$3.9 million settlement by threatening to withhold Community Development Block Grant Funds from the community until it resolved the matter.

B.2.3.1 Fair Housing Planning

In addition to conducting complaint investigations and compliance reviews, FHEO also ensures fair housing through Fair Housing Planning. To apply for HUD funding in programs like Community Development Block Grants, Home Investment Partnerships Program, Emergency Shelter Grants, and Housing for Persons with Aids, applicants must submit a Consolidated Plan, which includes an Analysis of Impediments to Fair Housing Choice. This requires the applicant to analyze impediments to fair housing and design a plan to allocate its Federal housing and community development funds to address those problems. In FY 1997, FHEO took an aggressive role in ensuring that these communities identify and address known fair housing problems.